

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DIVISION OF FINANCIAL INSTITUTIONS**

Before the Commissioner
of the Office of Financial and Insurance Services

In the matter of:

Carlton L. Combs d/b/a/ Enterprise Mortgage
7045 S. Cedar Street, Ste 1
Lansing, MI 48911

Docket No. EX 99-209

Carlton L. Combs, Owner and President

Respondent

CONSENT ORDER

Issued and entered
this 22nd day of March, 200²
by Frank M. Fitzgerald, Commissioner
Office of Financial and Insurance Services

That on October 21, 1999, a NOTICE OF OPPORTUNITY TO SHOW COMPLIANCE (NOSC) was issued by the Michigan Financial Institutions Bureau, now known as and hereafter "Division of Financial Institutions" (DFI) to Respondent in the above entitled matter pursuant to the provisions of the Mortgage Brokers, Lenders, and Servicers Licensing Act (Act), 1987 PA 173, as amended, MCL 445.1651 *et seq*; MSA 23.1125(51) *et seq*. and the Secondary Mortgage Loan Act (SMLA), 1981 PA 125, MCL 493.51 *et seq*; MSA 26.568 *et seq*.

The NOSC and the factual allegations and complaint contained therein contained alleged violations of the Act, the SMLA, and set forth the applicable laws and penalties which could be taken against Respondent.

As a result of the foregoing, Respondent undertook to remedy the violations set forth in the NOSC that were identified by DFI Staff during the December, 1998 examination.

The DFI Staff and Respondent have conferred for purposes of resolving this matter and have submitted a Stipulation to Consent Order and Consent Order for review and consideration by the Commissioner of the Office of Financial and Insurance Services (OFIS). On the basis of the Stipulation to Consent Order and Consent Order and the files and records of the DFI in this matter, the Commissioner FINDS and CONCLUDES that:

1. The Commissioner of the OFIS has jurisdiction and authority to adopt and issue this Consent Order in this proceeding, pursuant to the Michigan Administrative Procedures Act of 1969, (MAPA) as amended, MCL 24.201 *et seq*; MSA 3.560(101) *et seq*, the Act and the SMLA.

2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.

3. Respondent has violated Section 2(1) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by using independent contractors who were not employed by Respondent and were not licensed under the Act.

4. Respondent violated Section 4(1) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by accepting funds from prospective borrowers prior to closing mortgage loans without providing requisite proof of financial responsibility to the DFI.

5. Respondent violated Section 21(1) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to maintain its books, accounts, records, and documents of the business conducted under the license to enable the Commissioner to determine whether Respondent's business is being conducted in compliance with the Act.

6. Respondent violated Section 21(2) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to preserve and keep available for examination each mortgage loan document in its possession or control for the required period of time.

7. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to provide written notification of an applicant's right to receive a copy of an appraisal report in accordance with Regulation B, section 202.5a of the Equal Credit Opportunity Act.

8. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to provide written notification of adverse action taken in connection with mortgage loan applications in accordance with Regulation B, section 202.9 of the Equal Credit Opportunity Act.

9. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to provide good faith estimates in accordance with Regulation X, the Real Estate Settlement Procedures Act, section 3500.7(b) and Appendix C.

10. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to provide truth in lending disclosures in accordance with Regulation Z, the Truth in Lending Act.

11. Respondent violated Section 22(l) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by requiring a prospective borrower to deal exclusively with Respondent in connection with a mortgage loan application.

12. Respondent violated Section 23(l) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by requiring borrowers to pay charges other than "reasonable and necessary charges", by charging credit report fees and appraisal fees, which were in excess of its actual expenses incurred in connection with the borrowers' loan transactions.

13. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by brokering

secondary-lien mortgage loans without the requisite secondary mortgage license or registration, in violation of Section 2 of the SMLA.

14. Respondent violated Section 6a(13) of the SMLA, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to file its annual report for the year ended December 31, 1998 in a timely manner.

15. Respondent violated Section 22(a) of the Act, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by brokering a secondary mortgage loan to a lender who charged an interest rate in excess of 7% per annum in connection with loans made under the SMLA during the time period when Respondent was not licensed to broker secondary-lien mortgage loans, in violation of Section 1 of PA 326 of 1966, MCL 438.31; MSA 19.15(1). Further, Respondent violated Section 22(l) of the SMLA, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by charging fees in connection with loans made under the SMLA which are prohibited by law.

16. Respondent violated Section 25 of the SMLA, as indicated in the parties' Stipulation to Consent Order, the terms of which are incorporated herein, by failing to provide good faith estimates in accordance with Regulation X, the Real Estate Settlement Procedures Act, section 3500.7(b) and Appendix C.

17. Respondent has agreed to cease and desist from any and all violations of state and federal law.

18. Acceptance of the parties' Stipulation to Consent Order is reasonable and in the public interest.

19. All applicable provisions of the MAPA have been met.

20. This agreement is a final settlement of all allegations set forth in the Factual Allegation and Complaint.

THEREFORE, based on the parties Stipulation to Consent Order and the facts surrounding this particular case, **IT IS HEREBY ORDERED THAT:**

1. The Stipulation to Consent Order submitted by the parties to the Commissioner is hereby **ACCEPTED**.

2. Respondent shall immediately cease and desist from operating in violation of any provision of the Act and the SMLA.

3. Respondent shall not utilize independent contractors unless they are: 1) licensed or registered under the Act; 2) solely performing services as an employee for no entity engaged in activities of a mortgage broker, lender or servicer other than Respondent; 3). exempted from the Act under Section 25; or 4). licensed as a class I licensee under the Consumer Financial Services Act.

4. Respondent shall provide proof of financial responsibility to the DFI in the amount of \$25,000 within 30 days of the entry of this Order and shall not accept funds from prospective borrowers prior to closing mortgage loans without first providing proof of financial responsibility to the DFI.

5. Respondent shall maintain its books, accounts, records, and documents of the business conducted under the license to enable the Commissioner to determine whether Respondent's business is being conducted in compliance with the Act. Among other things, Respondent shall maintain a loan log containing the following information: 1) the date the application is received by Respondent; 2) the name of the applicant on each application received by Respondent; 3) the subject property address; 4) the lien position of the proposed mortgage (first or secondary lien); 5. The name of the "loan interviewer" who took the application as an employee of Respondent or the name of the originating broker company who brokered the loan application to Respondent; 6. The status of the application indicating whether the loan closed, was withdrawn, or denied; 7. The date the loan closed or the application was withdrawn or denied; and 8. The name of the lender for each closed loan.

6. Respondent shall preserve and keep available for examination each mortgage loan document in its possession or control as required under Section 21(2) of the Act.

7. Respondent shall provide written notification of an applicant's right to receive a copy of an appraisal report in accordance with Regulation B, section 202.5a of the Equal Credit Opportunity Act.

8. Respondent shall provide written notification of adverse action taken in connection with mortgage loan applications in accordance with Regulation B, section 202.9 of the Equal Credit Opportunity Act.

9. Respondent shall provide good faith estimates in accordance with Regulation X, the Real Estate Settlement Procedures Act, section 3500.7(b) and Appendix C.

10. Respondent shall provide truth in lending disclosures in accordance with Regulation Z, the Truth in Lending Act.

11. Respondent shall not require a prospective borrower to deal exclusively with Respondent in connection with a mortgage loan application.

12. Respondent shall not require borrowers to pay charges other than "reasonable and necessary charges", in connection with the borrowers' loan transactions.

13. Respondent shall not broker second-lien mortgages unless Respondent is licensed or registered with the DFI pursuant to the SMLA.

14. Respondent shall file all future reports on or before the date specified by law or as indicated by the DFI.

15. Respondent shall not charge, or broker to lenders who charge interest rates or fees in connection with loans made under the SMLA which are prohibited by law.

16. Respondent agrees that following the date of this Order:

- a. Respondent shall maintain a program to monitor and assure compliance with all state and federal laws and regulations pertaining to brokering, origination, closing and servicing of mortgage loans. Respondent shall educate its officers and employees involved in the brokering, origination, and closing of mortgage loans on all applicable state and federal laws and regulations, including, without limit, the Mortgage Brokers, Lenders and

Servicers Licensing Act, National Housing Act, Federal Truth-in-Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, Real Estate Settlement Procedures Act, Anti-Redlining Act, and applicable usury laws. The education shall be accomplished by requiring the officers and employees involved in the brokering, origination, closing and servicing of mortgage loans to attend training seminars for the next 12 months at least four hours in duration every quarter. The seminars shall be conducted by persons, not employed by Respondent, with recognized experience in the mortgage industry. The instructors for the seminars shall be varied in order to give the officers and employees a broad view of the regulation and operation of the mortgage industry. The seminars shall include the philosophy behind the laws and regulations as well as the requirements of the laws and regulations. The seminars may be organized by either Respondent or a local or national organization such as the Mortgage Bankers Association of Michigan or the Mortgage Bankers Association of America. Respondent shall keep a record of the attendance of the officers and employees at the seminars. The program shall include designation of a compliance officer who will conduct monthly reviews of a sample of files for closed loans and rejected loan applications. Respondent must inform the DFI of the individual designated as compliance officer and if there is any change in the compliance officer in the future, such change must be immediately reported to the DFI.

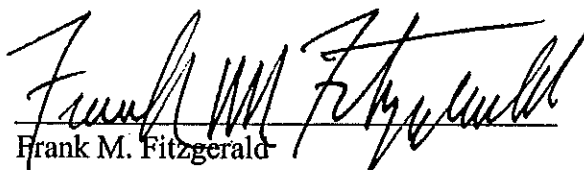
- b. Respondent shall retain attorneys familiar with the mortgage industry to advise Respondent on compliance with all applicable state and federal laws and regulations.

- c. The DFI may, as it deems necessary and appropriate, conduct periodic examinations or investigations of Respondent to monitor compliance with this Stipulation, at the expense of Respondent.

17. Respondent shall immediately forward to the DFI a civil fine in the amount of \$5000.00. Such fine shall be paid to the State of Michigan by check or money order.

18. Failure to abide by the terms and provisions of the Stipulation and this Order may result in the commencement of additional proceedings.

19. The Commissioner of the OFIS specifically retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as he shall deem just, necessary and appropriate in accordance with the provisions of the MAPA, the Act and the SMLA.


Frank M. Fitzgerald
Commissioner
Office of Financial and Insurance Services